[PATENT]

Before the United States Patent and Trademark Office

Serial Number: 09/678,915
AU:3627
Filed: 10/04/2000
For: Vending Machine Service System and Method Therefore
Date:Monday, February 16, 2004 10:40am

Ex: Zeender, Florian
Inv: Kronenberg et al

Verified Statement (Declaration) Under 37 C.F.R. Section 1.131

I, Mark S. Kronenberg, hereby declare that I am over 21 years of age, of sound mind, capable of making the declaration, and fully competent to testify concerning the matter stated herein, and have personal knowledge of same.

I am one of the inventors of the above-referenced patent application. I understand that the United States Patent Office has rejected claims 12-16 and 18-21 citing Beard et al 6,124,800 as well as Butler Published U.S Patent Application US 2003/0074106A1, which published on April 17, 2003 on a patent application filed 02/21/2002, claiming the benefit of Provisional Application 60/228,975 filed 08/30/2000.

The Butler published application indicates a filing date of 02/21/2002, which is over 28 months **after** the filing date of my 09/678,915 application, and thereby does not in and of itself comprise an appropriate reference under 35 USC 103. The Butler published application does claim the benefit of a **provisional application**, but the contents of said application are unknown.

Further, under 35 USC 119 (e)(1), a utility application claiming the benefit of a provisional application must be filed within 12 months of the date of filing of the Utility application in order to receive the priority benefit of said earlier filed Provisional application. The '975 provisional application is indicated in the Butler published application as having a filing date of August 30, 2000. The Butler published application '106A1 appears to have been filed **more than one year** after the filing date of said provisional, almost six months after the one year deadline, thereby clearly far in excess of the statutorily required 12 month deadline.

There has been no allegation that the provisional contained the subject matter of the '106 Butler published application, but even if it did, said published application is not entitled to the priority date of said provisional application, as said published application was not filed within the 12 months from the provisional filing date. Id.

As said provisional application is not considered a "printed publication" it cannot be cited on its own, and, in the present case, appears ineffectual as a reference.

I therefore do not acknowledge the validity or relevancy of the cited Butler references, for the reasons above stated.

Nonetheless, even if one were to believe that the cited Butler provisional application '975 contained common subject matter embodied in the '106 published application (which is again unknown by the undersigned) and one were to find that the '106 published application complied with

35 USC 119 (e)(1) for priority (which does not appear to be the case for reasons above cited), the invention of our present application was conceived and completed prior to the earliest possible claimed benefit embodied in the Butler '106 reference, that is, prior to 08/30/2000.

I note my patent application was filed only one month and two days after the earliest possible (but disputed) Butler 08/30/2000 date, and preparatory activities for filing our application began well prior to 08/30/2000, including the building and testing of prototype devices under the present invention.

Attached hereto as Exhibit "A" is a fax to my Patent Counsel Joseph Regard from myself dated 08/21/2000 setting forth figures 1-3 as representative of an exemplary system under the present invention. This document clearly predates the earliest possible Butler priority date.

Also attached hereto as Exhibit "B" is an invoice dated 07/31/2000 from Axonn Corporation to James Fabacher, and Employee of Compuvend, Inc., for AS-550 Transceiver and AX-620 Transmitters, which were utilized in fabricating a working prototype under the present system. Once again, this document evidences the activity of building a working prototype before the earliest possible Butler priority date.

Lastly, attached as Exhibit "C" is a document entitled "Field Test Report with Axonn Conducted on May 3, 2000", wherein Axxon Corporation conducted tests regarding regarding the feasability and requirements of the system under the present invention.

Further, I confirm that I worked diligently with my patent counsel from at least 08/21/2000, the time he received the sketch of Exhibit "A", to the time of filing the present application on 10/4/2000, about six weeks later.

Based upon these representations, I confirm of my own knowledge that the subject invention has a priority date, as evidenced by the above and attached, prior to 08/30/2000.

I hereby declare that all statements made herein are of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, and any patent issuing therefrom, or any patent to which this verified statement is directed.

Mark Kronenberg

Mark S. Kronenberg

2/16/04

Date

CompuVend Systems
P.O. Box 9106
Bridge City, LA 70096
800-341-7677

facsimile transmittal

To:	Joe Regard	Fax:	835-0596 / 871-1750
From:	Mark Krohnenberg	Date:	08/21/00
Re:		Pages:	2
CC:			

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Notes:

Ex "A"

Fig 1

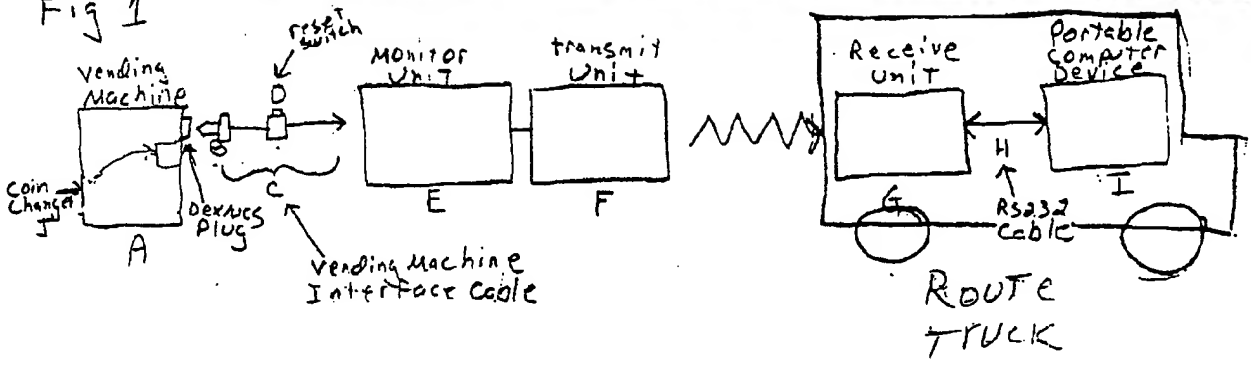


Fig 2

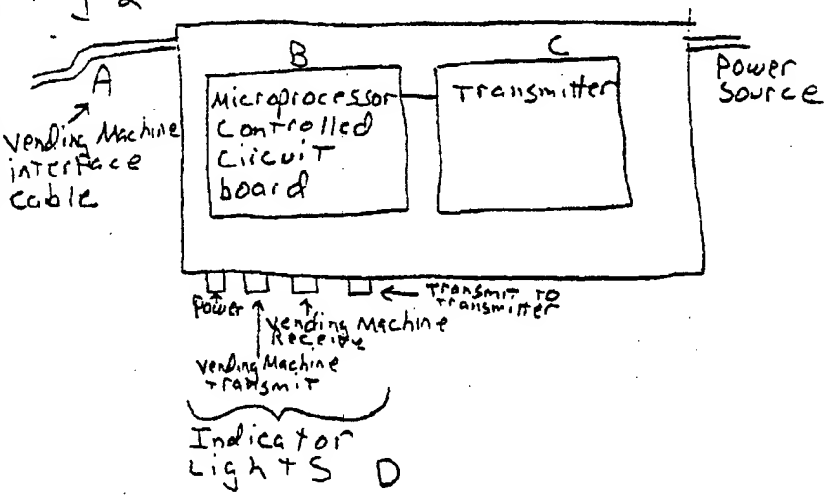
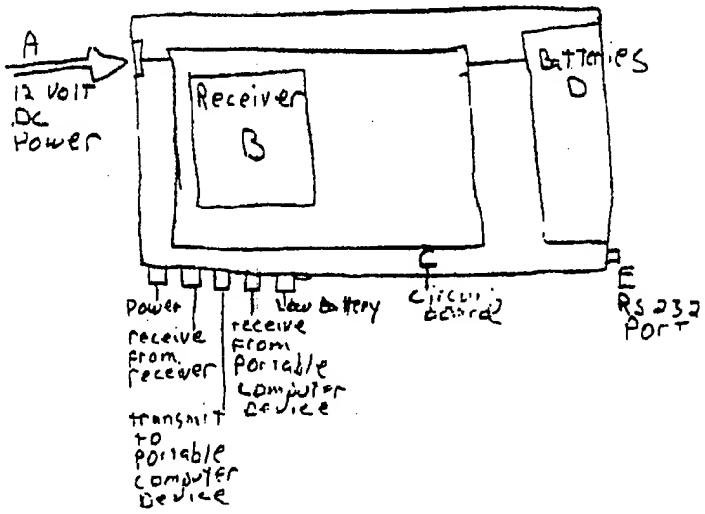


Figure 3



AXONN CORPORATION 101 West Robert E. Lee Boulevard • Suite 202 • New Orleans, Louisiana 70124 • (504) 282-8119 • FAX 282-0999

INVOICE DATE: 7/31/2000

INVOICE #534-00-2720
P.O. JR8120

TERMS: Due Upon Receipt

Mr. James Pabacher
Compuvend
P.O. Box 9106
Bridge City, LA. 70096

To invoice you for the following items picked up at Axonn Corporation on August 1, 2000:

1 each	AX-550 Transceiver	@ $196/each	$196.00
1 each	AX-620 Transmitter	@ $ 43/each	$43.00

TOTAL DUE AXONN CORPORATION: $239.00

Picked up by: 

Ex "B"

FIELD TEST REPORT WITH AXXON
CONDUCTED ON May 3, 2000
By James Fabacher with Bob Schimek, Jr.

We met at Long Leaf and were assigned Ron Moak, who handles machine placement for them, to take us around to various locations.

Tulane University:

Student Union: (Steel, Cement, Glass)

Vending bank located in the basement: 1 floor below ground. Bob from Axxon stayed at the loading dock where the driver usually parks, which I estimate was between 200-300 feet from the machines. We got a good signal while holding the Transceiver, herein after referred to as TXRX, in front of the machine, however when the TXRX was held on top of the machines we were not able to get a signal. Note that above the machines was somewhat enclosed and there were several AC ducts directly above the machines.

Vending Bank located on the first floor: Bob was at the loading dock and we got good reception. There was mostly glass between the two of us.

Vending Bank located on the first floor: Bob was first on the stree in front of the building, where the driver parks sometimes. It was almost a straight line of sight mostly through glass and we got very good reception. Bob then move to the loading dock, where he was about the same distance from me but there was a steel overhead door between us. We got very good reception.

Vending bank on the second floor in the new dorm building on Willow, located on the second floor. Bob was at street level, across the street from the building. We got good reception here.

Corp of Engineers Building, River Road in Uptown(Concrete, Steel, Cinder Block, Glass)

Vending Banks on the second & third floors: Bob was at street level by the loading dock. Both banks were located in the center of the building in a room made of cinder block with 1 steel door. We got good receptions at both locations.

Ocshner Foundation Hospital:

We decided not to enter the building as we were not sure if the radio frequency of our equipment would have any effect on the hospital's equipment. Considering the fact that some hospitals don't allow you to use your cellular phones.

The Home Depot – Elmwood(Cinder Block & Steel)

Employees lounge located in the rear of the building: Bob was located in the parking lot at the front of the store. While we were getting a good signal as we walked toward the rear of the store it became intermittent when we entered the break room. The break room was constructed of cinder block with 1 solid steel door. Also to note, that we also had trouble communicating with the two-way radios.

SYSCO – wholesale food distributor in Elmwood(Cinder Block, Steel, Glass)

Driver waiting room first floor by loading dock – Bob was located on the loading dock. We got a good signal in the small area that was made of cinder block with 1 steel door.

Employees Cafeteria – Bob was on the loading dock. The room is triangular with 2 wall od cinder block and 1 wall of glass, that face inward to the warehouse. There is a bank of about 10 different types of vending machines. We got good reception.

EX "C"

FIELD TEST REPORT WITH AXXON
CONDUCTED ON May 3, 2000
By James Fabacher with Bob Schimek, Jr.

Administrative break room located on the second floor – Bob was on the loading dock. This room is located adjacent to the sale and purchasing area which is a large open space with cubicles. We got good reception here.

Stewart Enterprises building, located on the south side of Veterans Blvd.(Concrete, Steel, Glass)

Vending bank located on the first floor in the center of the building. Bob was located in the parking lot. We got good reception here.

Employee dining area located on the second floor. Bob was located in the parking lot. This space is two wall of brick and two walls of glass one of which faced Bob's location We got good reception here.

Plaza Towers – 1000 Howard Ave(Steel, Concrete, Glass)

Employee break area located on the 11th floor to the outside of the building. Bob was located outside on the street, on the same side of the building as the break area was located. We noticed as we walked through the building that we were getting intermittent signals. We were able to get a good signal from the machines. There were glass windows between our location and Bob's. Bob changed his position to a delivery breezeway located at street level in the middle of the building, we were not able to get a signal.

Vending bank located on the 17th floor in the center of the building. Bob was located outside on the street. We were not able to get a signal here.

Bob changed his location to the break area located on the 11th floor and we were able to get a good signal between the 11th & 17th floors. We noticed as he traveled through the building, the signal was intermittent. We were able to get a good signal from the elevator lobbies to this location.

Bob changed his location to the vending bank located on the 15th floor. We were able to get a good signal. We noticed as he traveled through the building, the signal was intermittent. We were able to get a good signal from the elevator lobbies to this location.

Pan American Life Insurance - Poydras St.(Concrete, Steel, Glass)

Vending bank on the 10th floor toward the center of the building, near the elevators. Bob was located at ground level in the loading dock area. We were not able to get a signal. Bob changed his location to inside the building at ground level, by the elevators. We were able to get a good signal from here.

Vending bank on the 12th floor toward the exterior of the building. Bob was located in the building by the elevators on the ground floor. We were getting a signal until we got within approximately 30 ft of the vending machines. Of note is the fact that the freight elevator was located across from this bank of machines. There must have been something in the area to cause the interference. When we left the machines and walked back toward the regular elevators we started picking up the signal when we go about 30 ft for the machines.

Macy's – New Orleans Centre(Concrete, Cinder Block, Steel)

Employee break room located on the 2nd floor. Bob was located at ground level outside the building in the service alley. We got a good signal here.

Times Picayune – Howard Avenue(Concrete, Steel, Cinder Block)

Vending bank on first level, center of building. Bob was located outside the building by the loading dock, which was almost a straight shot to our location. We got a good signal here.

FIELD TEST REPORT WITH AXXON
CONDUCTED ON May 3, 2000
By James Fabacher with Bob Schimek, Jr.

Vending bank in the pressroom, on the second level toward the rear of the building. Bob was located outside the building by the loading dock. We didn't get a signal. Note that the pressroom has a steel floor and 2 story printing presses.

Employee cafeteria located on the second floor toward the front of the building, where Bob was located. Bob was located outside the building by the loading dock. We were able to get a good signal here.

Vending bank located on the third floor toward the center of the building. Bob was located outside the building by the loading dock. We were not able to get a signal here. Note that this location was adjacent to the boiler room and the wall appeared to be extra thick concrete.

COMMENTS:

Overall I think the test went very well, even though we did have some areas where we couldn't get a signal. As you realize, it will be virtually impossible to be able to get 100 % using this radio technology. However, there is tremendous potential in using this and as we get more into it we will learn different ways to deal with some of the problems as they arise.